



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: OPC, MNR, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing were personally served on July 04, 2014. Despite this, the tenant did not appear.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which the landlord testified began more than 1 year ago. Monthly rent of \$700.00 is due and payable in advance on the first day of each month, and a security deposit of \$350.00 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated June 15, 2014. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is July 15, 2014. 1 of 3 reasons identified on the notice in support of its issuance is as follows:

Tenant is repeatedly late paying rent

The landlord testified that no rent has been paid for any of the following 4 months: April, June, July and August of 2014.

The tenant has not applied to dispute the notice and the tenant continues to reside in the unit.

### Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated June 15, 2014. The tenant did not apply to dispute the notice within 10 days after receiving it. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Pursuant to section 53 of the Act which addresses how **Incorrect effective dates automatically changed**, in the circumstances of this dispute, I find that the effective date of the notice is July 30, 2014.

Residential Tenancy Policy Guideline # 38 speaks to "Repeated Late Payment of Rent," in part as follows:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Following from all of the above I find that the landlord has established entitlement to an **order of possession**.

As to compensation, I find that the landlord has established a claim of **\$2,850.00**:

\$2,800.00: *4 x \$700.00 in unpaid rent for April, June, July & August 2014*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from the above, I order that the landlord retain the security deposit of **\$350.00**, and I grant the landlord a **monetary order** for the balance owed of **\$2,500.00** (\$2,850.00 - \$350.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,500.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 27, 2014

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Residential Tenancy Branch

